

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Manuel FONTES-Acosta,

Defendant

Magistrate Docket No. 39


08 MAY 27 AM 11:39 '08 MJ 1642  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
COMPLAINT FOR VIOLATION OF:

DEPUTY  
Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **May 23, 2008** within the Southern District of California, defendant, **Manuel FONTES-Acosta**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
SIGNATURE OF COMPLAINANT  
Ismael A. Canto  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 27<sup>th</sup> DAY OF MAY 2008

  
Jan M. Adler  
UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**

**Manuel FONTES-Acosta**

**PROBABLE CAUSE STATEMENT**

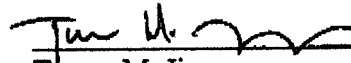
I declare under the penalty of perjury that the following statement is true and correct:

On May 23, 2008, at approximately 12:00 a.m., Border Patrol Agent O. Gomez was performing linewatch duties in the area commonly known as the "Windmill Canyon". Windmill Canyon is located approximately, 4 miles east of the Otay Mesa, California Port Of Entry and approximately 2 miles north of the United States/Mexico international boundary. Agent Gomez responded to a call of a seismic intrusion alert via his service issued radio. Upon arriving to the area, agent Gomez proceeded to check for footprints. While checking for footprints, the agent came upon five individuals hiding in an area surrounded by large rocks. Agent Gomez identified himself as a United States Border Patrol Agent and instructed the individuals to come towards him. Agent Gomez questioned the individuals, including one later identified as the defendant **FONTES-Acosta, Manuel**, as to their citizenship and nationality, and they all responded "Mexico." Agent Gomez then questioned the individuals if they had any immigration documents that would allow them to be or remain in the United States legally, to which they all responded "No." Agent Gomez then placed the individuals under arrest at approximately 12:05 a.m., and had them transported to the Chula Vista Border Patrol Station for further processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on May 1, 2008 through Nogales, Arizona. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

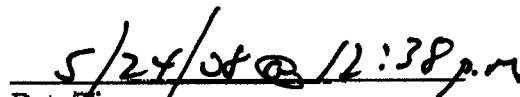
The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and that he was willing to answer questions without an attorney present. The defendant again freely admitted to being a citizen and national of Mexico and that he possessed no immigration documentation permitting him to enter or remain in the United States legally.

Executed on May 24, 2008 at 10:30 a.m.

  
Tomas M. Jimenez  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 2 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on May 23, 2008, in violation of Title 8, United States Code, Section 1326.

  
Jan M. Adler  
United States Magistrate Judge

  
Date/Time